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Fourth Session—Twenty-fourth Parliament

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THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
CIVIL SERVICE ADMINISTRATION

To whom was referred the Bill C-71, intituled:

An Act respecting the Civil Service of Canada

no. 1

The Honourable DONALD CAMERON, *Chairman*

TUESDAY, SEPTEMBER 26, 1961

WITNESSES:

he Honourable S. H. S. Hughes, Q.C., Chairman of the Civil Service Commission; and Mr. C. J. Mackenzie, Assistant Secretary, Treasury Board, Department of Finance.

REPORT OF THE COMMITTEE.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1961

THE STANDING COMMITTEE ON
CIVIL SERVICE ADMINISTRATION

The Honourable Donald Cameron, Chairman

The Honourable Senators

*Aseltine	Connolly (<i>Ottawa West</i>)	Kinley
Bishop	Davies	Lambert
Blois	Dessureault	Leger
Bouchard	Dupuis	*MacDonald
Brooks	Fergusson	Quart
Brunt	Gouin	Roebuck
Cameron	Haig	Taylor (<i>Norfolk</i>)
Choquette	Irvine	Turgeon
		Wilson—23.

(Quorum 7)

*Ex officio member.



1062000

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Monday, September 25, 1961.

"A Message was brought from the House of Commons by their Clerk with a Bill C-71, intituled: "An Act respecting the Civil Service of Canada", to which they desire the concurrence of the Senate.

The Bill was read the first time.

The Honourable Senator Macdonald (*Cape Breton*) moved, seconded by the Honourable Senator Hnatyshyn, that the Bill be read the second time now.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Macdonald (*Cape Breton*) moved, seconded by the Honourable Senator Hnatyshyn, that the Bill be referred to the Standing Committee on Civil Service Administration.

After debate, and—

The question being put on the motion, it was—

Resolved in the affirmative."

J. F. MacNEILL,
Clerk of the Senate.

REPORT OF THE COMMITTEE

TUESDAY, September 26, 1961.

The Standing Committee on Civil Service Administration to whom was referred the Bill (C-71), intituled: "An Act respecting the Civil Service of Canada", have in obedience to the order of reference of September 25th, 1961, examined the said Bill and now report the same without any amendment.

All which is respectfully submitted.

DONALD CAMERON,
Chairman.

MINUTES OF PROCEEDINGS

TUESDAY, September 26, 1961.

Pursuant to adjournment and notice the Standing Committee on Civil Service Administration met this day at 11.30 a.m.

Present: The Honourable Senators Cameron, Chairman; Aseltine, Blois, Brunt, Connolly (*Ottawa West*), Dupuis, Gouin, Kinley, Lambert and Irvine—10.

In attendance: Mr. E. R. Hopkins, Law Clerk and Parliamentary Counsel and the Official Reporters of the Senate.

Bill C-71, An Act respecting the Civil Service of Canada, was considered.

The Honourable S. H. S. Hughes, Q.C., Chairman of the Civil Service Commission; and Mr. C. J. Mackenzie, Assistant Secretary, Treasury Board, Department of Finance were heard in explanation of the Bill.

On motion of the Honourable Senator Brunt, it was resolved to report recommending that authority be granted for the printing of 800 copies in English and 200 copies in French of the Committee's proceedings on the said Bill.

On motion of the Honourable Senator Hayden, it was resolved to report the Bill without any amendment.

At 12.45 p.m. the Committee adjourned to the call of the Chairman.

Attest.

A. Fortier,
Clerk of the Committee.

THE SENATE

STANDING COMMITTEE ON CIVIL SERVICE ADMINISTRATION

EVIDENCE

OTTAWA, Tuesday, September 26, 1961.

The Standing Committee on Civil Service Administration, to which was referred Bill C-71, an Act respecting the Civil Service of Canada, met this day at 11.30 a.m.

Senator DONALD CAMERON (*Chairman*), in the Chair.

On a motion duly moved it was agreed that 800 copies in English and 200 copies in French of the committee's proceedings on the bill be printed.

The CHAIRMAN: Honourable senators, as we have a quorum I shall call the meeting to order so that we may get under way. There is a good deal to cover, and my thinking, subject to your agreement, is that we carry on from now until one o'clock and reconvene at two o'clock.

Senator ASELTINE: When the Senate rises. We cannot meet at two o'clock.

The CHAIRMAN: All right. We have with us this morning the Honourable S. H. S. Hughes, Q.C., Chairman of the Civil Service Commission, and Mr. C. J. Mackenzie, Assistant Secretary of the Treasury Board.

Before calling the Honourable Mr. Hughes, is it the pleasure of the meeting to invite any other people to appear before the committee?

Senator BRUNT: Is there anybody else who should be invited?

The CHAIRMAN: I am asking for information.

Senator LAMBERT: I should think as the discussion takes place that could be discovered and that we should let the committee proceed as it is.

The CHAIRMAN: Very well.

Senator CONNOLLY (*Ottawa West*): And there is always this to be said, Mr. Chairman, that if there are people who want to come and give evidence they may do so.

Senator ASELTINE: We do not usually invite them, but if they want to come it is quite all right.

Senator CONNOLLY (*Ottawa West*): We are ready to hear them.

HON. S. H. S. HUGHES, Q.C., CHAIRMAN, CIVIL SERVICE COMMISSION:

The CHAIRMAN: Mr. Hughes, we shall be very glad to have any comments or explanations you care to make which you feel would be useful to the committee at this time.

Senator ASELTINE: In a general way.

The CHAIRMAN: In a general way. We had a very good discussion in the Senate last night, and I think most of the members followed the proceedings of the committee in the other house. We hope to get this rather lengthy discussion reported as soon as we conveniently can.

Hon. Mr. HUGHES: I will be very brief, Mr. Chairman. I heard the discussion in the Senate last night also, and I thought it covered the ground excellently. I should say by way of introduction that both my colleagues, Miss Addison

and Mr. Pelletier, are away. Miss Addison is out west, and Mr. Pelletier has a touch of the 'flu, and could not be here; we hope he will be back in the office tomorrow. Miss Addison will regrettably not be back until Monday.

The background of this bill, Mr. Chairman, of course, is the Heeney Report, and I think it is sufficient to say that wherever there was any residual direction to be taken by the draftsmen it was derived from the Heeney Report. There are certain recommendations in the Heeney Report which were not incorporated in the bill. I cannot pretend to be exhaustive on this subject, but I would say that the first item was the fashioning of a unitary civil service to include many agencies like the National Research Council which are at present outside the service, and which, you may remember from some of the observations that were made, would like to remain outside the service; and it was felt that at this time perhaps such a sweeping embrace should not be placed upon all the various agencies of the Crown. The second is, of course, in reference to the veterans preference. I think there has been some misunderstanding about that. I am advised by my colleagues that the authors of the Heeney Report did not contemplate changing the present preference entitlement as it applied to veterans of the first and second world wars; they were holding out a plan possibly more equitable which could apply in the case of future wars.

Senator ASELTINE: We hope not.

Hon. Mr. HUGHES: Yes, of course. I did not realize it when I first looked at the report, but I understand from them that is the case. As you know, the bill contains practically to the last jot and tittle the same provisions in connection with the veterans preference entitlement that are contained in the Civil Service Act as it is now operative.

Then again, I think perhaps I should refer briefly to section 7 of the bill, which I know is of great interest. The Heeney Report recommendations, as Senator Connolly said last night, are contained I think in section 47 of the report and appendix B, and it was felt by the authors of the report that a system involving negotiation, collective bargaining and compulsory arbitration was not suitable for our particular environment at this time. They recommended something which they called "systematic discussions", by which the representatives of the staff associations and representatives of the treasury and other Government departments should sit on opposite sides of the table, which would be presided over by representatives of the Civil Service Commission, and then when all the arguments had been thoroughly aired, the Civil Service Commission would make its recommendation to the Government. In section 7, clauses 7 and 10, subclause (3), the provisions of these sections go a little further. As you will notice, Mr. Chairman, in clause 7 there are two provisions for consultation by the commission, first of all, in connection with terms and conditions of employment and any such matters as are raised in section 68, for which the commission has the right to initiate recommendations for the enactment of regulations for the Governor in Council.

Senator BRUNT: Could we pause for a moment? I notice in the original Bill C-77 that section 7 consisted of one paragraph only. Now you have added two paragraphs to it?

Hon. Mr. HUGHES: That is right, and an additional paragraph in clause 10.

Senator BRUNT: Yes, you have added a third one. What do those additions do that were not covered by the original Bill C-77, which received first reading on June 20 of last year?

Hon. Mr. HUGHES: The principal and most significant thing in its revised form that this clause does is to remove the commission from any discussions which may take place between the Minister of Finance and his nominees and the

staff associations on questions of pay. That is shown in subclause 1. The commission is not a party to discussions under subclause 1. In the original section, as I remember it, the commission was included; and the place where the commission now consults with the staff associations independently of any consultation with treasury officials is in subclause 3 of section 10 entitled, "Pay and Allowances".

Senator BRUNT: Also you come in there at a later time.

Hon. Mr. HUGHES: We actually come in at an earlier time.

Senator BRUNT: At an earlier time, under clause 10, subsection 3.

Hon. Mr. HUGHES: That is the way we would see it, because we would then be making our recommendations to the Government and these recommendations would be the basis, presumably, for discussion between the minister and his nominees and the staff associations under subclause 1 of section 7.

Senator BRUNT: So that the commission now meets separately with the various associations?

Hon. Mr. HUGHES: That is correct.

Senator BRUNT: Prior to meeting with the minister?

Hon. Mr. HUGHES: That is right.

Senator BRUNT: But then when they meet with the minister you simply submit your recommendation?

Hon. Mr. HUGHES: Yes.

Senator BRUNT: You do not appear?

Hon. Mr. HUGHES: No. I should say by way of caution here that the form of the words used in these sections cannot really forecast the type of procedures which will be adopted. In section 69 the Governor in Council can make regulations to provide, presumably, these procedures; but I suspect that their form will be dictated by experience in practice as what is the most sensible way to go about it.

Senator BRUNT: You are breaking into new ground and in a year's time you may have to come back with an amendment to the act or have something done by regulations.

Hon. Mr. HUGHES: That is right.

Senator CONNOLLY (*Ottawa West*): There are no regulations yet.

Hon. Mr. HUGHES: The state of the regulations is this. They have been drawn; that is, regulations under section 68, for which the commission is responsible, have been drawn in draft. The first draft has been circulated and discussed with staff associations and departmental heads. A revised draft has now been issued, and will be the subject of further discussion. Then we hope to have these regulations ready for enactment co-terminously, or coincidentally with the proclamation of the bill.

Senator CONNOLLY (*Ottawa West*): Do you mind some questions now concerning section 7? I must confess I am a little concerned, as I said last night, about the position of the commission in respect of these consultations or negotiations. I rather agree with what was said in the other house by a number of members, and perhaps you have said it yourself. I just forget the evidence on that point. That word "negotiate," as it is used in the provincial legislation touching labour relations and, indeed, in the Industrial Disputes Investigation Act, federally, can have a certain meaning for industry, but obviously the same circumstances do not apply in the public service. So, I do not think it matters too much, nor do I think it will matter very much to the staff associations, whether one word rather than another is used. I think what they want—and I am not speaking for them, I am just looking at the act—is an opportunity to participate in discussions with reference to

conditions of work, including pay. Now, I know it is going to be difficult to work out these regulations, but I am troubled in my own mind as to the independence of the commission. Under the act the commission and the members of the commission can only be removed from office by joint address of both houses of parliament, so the commission is a very independent body. I know that you do not want to insulate it from everything, because it is there to perform functions on behalf of the Government and on behalf of the employee. However, as I said last night—and here I am not asking a question and am not making a suggestion, but I am just wondering if in section 7, and not only in section 7 but also under section 10(3) of the act, the commission is not getting into the position where it is with the Government, the side of the employer, on the one hand and on the side of the staff associations on the other hand.

Let me give you an example. Frankly, I admit this is hardly a question; it is a speech, but I have to do it this way. Under section 7(1) the minister or the staff associations can initiate discussions with reference to pay. But it is also provided that the commission sets out the suggestions for the Government in respect of pay, and that it consults with the staff associations with reference to that. So you come along with your suggestions as to what the pay should be for a certain position. Then, I suppose, under section 7(1) the staff associations can go to the minister?

Hon. Mr. HUGHES: Yes.

Senator CONNOLLY (*Ottawa West*): Maybe he is for you, and maybe he is against you and is for them; but you are right into that argument. I would think, depending upon what attitude the parties take, you are either on one side or the other. I am wondering how the independence of the commission is then affected. I do not think I can explain it in more precise language than that.

Senator BRUNT: You might get a unanimous report.

Senator CONNOLLY (*Ottawa West*): Yes, you might get a unanimous report but, on the other hand, you might not in labour relations.

Senator HAYDEN: Are these provisions much different from the present act on this point? In the present act the commission may, in effect, arrive at rates of compensation, but they do not become operative until the Governor in Council approves them. Under the present bill the commission has the power to recommend rates, but the Governor in Council is the one who has to activate them. Since that is spending people's money, it should be the Governor in Council or Parliament that should make the final determination. I do not see anything in the connotation of the word "consult". I think it is the part of wisdom for them to consult every place they can, and certainly with the associations to see what their viewpoint is. But, surely, if you pick the right men they can be independent enough and exercise the authority they have in their field? They have an authority above them which is the Government and the Governor in Council—and they should be above the commission.

Senator BRUNT: Would not the commission act as an independent body? They are neither with the association nor the Government. They sit down and listen to representations as an entirely independent body, and then come up with the recommendations.

Senator CONNOLLY (*Ottawa West*): Perhaps we are getting right to the nub of this. The commission is instructed to make recommendations with reference to a pay rise at a given time. In doing that it consults with the staff associations. So you have the commission on the one side, and the staff associations on the other side saying, "This is what we think you should do." Each body puts forward its viewpoint, and the commission comes up with a conclusion. For practical purposes the staff associations are dealing with the commission on the

other side of the table, perhaps not quite but almost in the position of the employer. After those negotiations, the commission makes its recommendation to Government. The staff associations can come in again, and they are entitled to consult, but this time they have not across the table from them the members of the commission but representatives of the Government, presumably treasury board officials. So, really, they have two sets of people on the employment side, have they not?

Hon. Mr. HUGHES: Yes.

Senator BRUNT: I think the commission sits as an independent body to hear representations, and it passes on the information to the Minister of Finance. And that is it; you are finished.

Senator LAMBERT: That is the way it should be.

Senator BRUNT: That is the way it works.

Hon. Mr. HUGHES: It is the way in which this bill provides for it working. Generally, in answer to what Senator Connolly asked, I do not think—in fact, I am confident there is no derogation from the independence of the commission, either express or implied in these sections. It may be the independence of the commission could be imperilled by the conduct of the commissioners at some time, but as far as these sections go, I do not think there is any danger.

In fact, if you are going to have the commission in the pay picture at all you have got to have, in connection with consultation, some provision of this kind.

The Government, apparently, has felt, in introducing this bill, that the commission should stay in the pay picture. Subject to whatever correction may be given by Mr. Mackenzie in answer to any questions you may wish to put to him, I think, perhaps, the service would like the commission to stay in the pay picture, and if there is going to be any consultation, of course, we are going to be on opposite sides of the table to a certain extent. But, the fact that the commission and the treasury are kept separate in this section so far as negotiations are concerned, can, it seems to me, be the best guarantee you have under the bill of the commission's independence.

Senator HAYDEN: If the commission is studying and is going to report on pay then ultimately the Government is going to make a decision. Why should there not be available the opportunity to the Government, through any method it may choose, and by any means it may wish to take, to look for information which is, for instance, what the commission recommends? Yet, I do not see how that robs the commission of independence.

The CHAIRMAN: Is it not true that the Civil Service Commission in this case is somewhat analogous to a royal commission which sits down and gets the best evidence available, and makes a report to the minister, who must make the final decision?

Senator HAYDEN: Or the Governor in Council.

The CHAIRMAN: Yes, but there is one question there, and that is whether these recommendations which may be made by the Civil Service Commission are made in public or private. Is it confidential information, or is it open to the public?

Senator BRUNT: That is an awfully good question.

Senator HAYDEN: Section 10 does not indicate whether they are public or private.

Hon. Mr. HUGHES: No. Of course, hitherto, as you know, Mr. Chairman, the recommendations that the commission has made have been regarded as confidential.

Senator HAYDEN: Yes, and I think they should be.

Hon. Mr. HUGHES: Under section 10, however, and under section 7, it seems to me impossible that the commission can make recommendations on the basis of which there would be subsequently a consultation between the staff associations and the treasury without having these recommendations available to the staff associations themselves. What degree of confidence might be placed on the nature of the consultations I do not know, but at least as far as the staff associations are concerned they would know either prior to the consultation or, at least, during the course of it, just what the recommendations are.

Senator HAYDEN: Why would that be necessary in conferences between the treasury and the staff associations? The treasury would be exploring the minds of the association representatives, and the association representatives would be putting their best feet forward in their presentation of the case. If that is to have any real value should it not be made on the basis of independent consideration, rather than argument for or against the recommendation of the commission. At that stage you do not know whether the Treasury Board approves of it, and you do not know whether the Governor in Council is going to support it. If there is any merit at all in the position of the associations then surely they can make their case without having the report.

Hon. Mr. HUGHES: That might be the way in which it develops, but I would say that the commission itself derives its knowledge of data on outside pay rates from the work of the Pay Research Bureau which is a part of the commission, and these reports are made available on a confidential basis to the commission, to treasury, and to the staff associations.

Senator HAYDEN: And to the staff associations?

Hon. Mr. HUGHES: Yes, and, indeed, they have been ever since the Pay Research Bureau was set up in September, 1957. In consequence, the staff associations have that data available to them. It seems to me, and this is just speculation, that if the staff associations have to start *ab initio* with the minister and his nominees with respect to the consultations under subsection (1) of section 7, and without knowing what the commission has recommended, a great deal of time is going to be consumed in going over the same ground. It has always seemed to me that the commission's recommendations would be the basis for representations in one direction or the other, taking the commission's report as a working document.

Senator LAMBERT: May I ask a question here? Does the jurisdiction of the commission extend to the so-called rank of senior civil servants which was set up as a separate category by the Heeney Report in 1946? Has there been any change in that situation?

Hon. Mr. HUGHES: The jurisdiction of the commission extends to all of the classified civil servants, which include all the officials in every department below the rank of deputy minister.

Senator LAMBERT: What about the so-called principal officials?

Hon. Mr. HUGHES: Yes?

Senator LAMBERT: They were mentioned in the Heeney Report as a separate category. It mentioned deputy ministers and so-called principal officials other than the deputy ministers, and they were identified with the establishment of certain levels of salary which represented considerable advances over the previous levels. I do not think the Civil Service Commission had anything to do with that at all. I am just wondering what the situation is now.

Hon. Mr. HUGHES: I am not aware of a report in 1946 unless it is the Gordon Commission report.

Senator LAMBERT: Yes, that is it. As Senator Connolly said last night, it is a very interesting report for perusal at this time.

Hon. Mr. HUGHES: Yes. What we have done as you are probably aware, senator, is to divide the highest ranks of the service into three groups of senior officers in ascending order. Senior Officer 1 is the lowest, above him comes Senior Officer 2, and then Senior Officer 3. Senior Officer 3 gets the highest salary in classified civil service, and those appointments are made by the commission, and salaries are set as a result of the recommendations of the Civil Service Commission to this day, and under this bill the same situation will prevail.

Senator LAMBERT: Just to be specific about it, I think the deputy ministers' salaries were advanced to the level of \$15,000 per annum as a result of the Gordon Commission's report in 1946. There were two salaries above that which were set at \$17,250 per annum, and then there were the so-called principal officers other than deputy ministers whose salaries ranged from \$10,000 to \$12,000. Those levels were established then. Before that time deputy ministers' salaries were fixed pretty much at the level of \$10,000 per year. Since then I know that there have been advances in the salaries of deputy ministers to \$20,000 and \$22,000 a year. I suppose in connection with those very important posts in the senior civil service the Civil Service Commission is consulted to a certain extent? I wanted to find the category; that is all.

Hon. Mr. HUGHES: We have nothing to say about the salaries of anybody who is appointed by the Governor in Council, and those people include deputy ministers, members of boards and commissions, and so forth.

Senator BRUNT: Would they include associate deputy ministers also?

Hon. Mr. HUGHES: Yes.

Senator LAMBERT: And assistant deputy ministers?

Hon. Mr. HUGHES: No, assistant deputy ministers are members of the classified service.

Senator DUPUIS: But with respect to cases such as those mentioned by Senator Lambert, in the fixing of wages, if there is a difference of opinion between the associations who are consulted, who has the last word? Is it not the Governor in Council?

Hon. Mr. HUGHES: That is right.

Senator PEARSON: I should like to ask a question about the confidential arrangement between the staff representatives and the commission. Do not the staff representatives have to report back to their associations as to what arrangement they have made or discussed with the commission?

Hon. Mr. HUGHES: You are now referring to the procedure that is contemplated under the bill?

Senator PEARSON: No, I suppose not. You talked about keeping certain matters confidential. I was just wondering how it can be kept confidential if the staff representatives have to report back to their associations.

Hon. Mr. HUGHES: Well, so far as the Pay Research Bureau reports are concerned the confidence has always been well kept. I do not know that we can object to extending the circle of consultation among the staff associations themselves, as long as that confidence is preserved. I am not thoroughly certain of what I am saying now but I think the Pay Research Bureau reports are rather jealously guarded by the senior executives of the three major staff

associations, the Civil Service Federation, the Civil Service Association and the Professional Institute of the Public Service.

Senator HAYDEN: I notice in section 7 (1) there is no time limitation within which the Minister of Finance or such members of the public service as he may designate shall consult with the associations. I can conceive the procedure to be that the commission might study the question of remuneration either at its own instance or at the request of the Governor in Council, and make a recommendation to the Governor in Council. Before the Governor in Council considers that, the Minister of Finance might then function under section 7 (1) and possibly that is one of the reasons for having this subsection (1) separate, for it deals only with the question of remuneration. There is nothing there that says that consultation is confidential.

Hon. Mr. HUGHES: No.

Senator HAYDEN: So it may well be that with those recommendations they start to have a conference under section 7 (1) and the subject matter of the commission's recommendations will be the very thing that will be discussed with the association.

Hon. Mr. HUGHES: That is entirely possible.

Senator HAYDEN: I find no prohibition.

Hon. Mr. HUGHES: No, there is none.

Senator HAYDEN: So it will be a matter of interpretation in the first instance as to whether the recommendations are going to be regarded as confidential. They may well be confidential in the sense they are not published as such, but for the purposes of a conference on remuneration called by the Minister of Finance, that would be part of the subject matter and the substance of such a conference.

Hon. Mr. HUGHES: Yes.

Senator HAYDEN: Or the staff association may request it.

Hon. Mr. HUGHES: I may say that the main reason for imposing the confidential category on this information is the fact that our sources might be compromised by any release of this information.

Senator HAYDEN: There is another reason. It could be that you may get a lot of that information as to pay from the Bureau of Statistics and anything they send across to you you may use, but there is a statutory and confidential character attached to it.

Senator BRUNT: I do not think the Income Tax Branch would provide you with any of that information.

The CHAIRMAN: In the case of Crown corporations that do not come under the civil service—and I think the National Research Council is a special case, as is the National Film Board, the Canadian Broadcasting Corporation and so on—what yardstick is used for determining the salaries of the senior officials in those corporations?

Hon. Mr. HUGHES: Mr. Chairman, I think perhaps Mr. Mackenzie could answer that question. The Treasury Board has a general interest in these matters outside the jurisdiction of the Civil Service Commission.

Mr. MACKENZIE: Mr. Chairman, the salaries of the senior staffs of Crown agencies, and I will take the National Research Council as an example, are fixed by Governor in Council and for many years it has been the Government's prerogative to make such adjustment simultaneously with the adjustment recommended by the Civil Service Commission for the counterpart of these officers in the civil service. In the revision made last year when the commission recommended to the Governor in Council and the Governor in Council approved

the revisions of salaries for the senior classifications, at the same time the Governor in Council acted to revise the salaries of officials of the National Research Council to keep them in line. That is necessary otherwise there would be a draining away from one service to another.

Senator CONNOLLY (*Ottawa West*): And the authority for that is in the statute governing each of these corporations, I presume?

Mr. MACKENZIE: That is right.

Senator BRUNT: What system is used in determining the salaries of Polymer Corporation officials?

Mr. MACKENZIE: The determination of the salaries of the staff of Polymer Corporation and T.C.A. does not come within the jurisdiction of the Governor in Council. These salaries are determined, in the case of the senior staff, by the board of directors of the corporation.

Senator CONNOLLY (*Ottawa West*): That is one reason that the Heeney Report recommended the exclusion of many of the proprietary corporations from the one civil service.

Senator BRUNT: In Polymer the wages of ordinary workmen are determined after union negotiation, are they not?

Mr. MACKENZIE: Yes.

Senator BRUNT: Does that also apply to the C.N.R.?

Mr. MACKENZIE: Yes.

Senator BRUNT: And to the C.B.C.?

Mr. MACKENZIE: Yes, to a large extent.

Senator BRUNT: To the National Film Board?

Mr. MACKENZIE: No, with a few exceptions the Film Board does not have unions representing its employees. The exception is the Musicians' Union with which they contract.

Senator BRUNT: You will never get away from them.

Senator CONNOLLY (*Ottawa West*): In industry where wages and salaries are set as a result of negotiations, usually these revisions take place annually or according to the term of the contract, and that is usually set out. Now, for the public service you have not got that renewable contract idea and I don't suppose you ever had it. How, then, do you suppose there would be consultation with the minister or his representatives or with the commission by the staff organizations, or is it a continuous affair that is going on most of the time?

Hon. Mr. HUGHES: The commission under clause 10 is charged with the responsibility of keeping under review the rates of remuneration. I think I can say this, that there is in contemplation now between the commission and the Treasury Board the establishment of a regular system, a cyclical system of review of the remuneration of all classes in the civil service, divided into groups. This will mean you will be able to set your watch by the time you are entitled to have your salary considered on this basis.

Senator HAYDEN: Mr. Chairman, may I ask a question on the subject of lay-offs? Where the deputy determines that there is no longer any such position and the previous incumbent is therefore laid off, is there any provision for an eligibility list to be set up whereby those who have been laid off may be brought back on some seniority basis as against new people who have qualified by examination to come into another department of Government?

Hon. Mr. HUGHES: There is. I think you will find it in clause 54.

Senator HAYDEN: I was looking at clause 54.

Senator BRUNT: I never thought there were any lay-offs in the civil service.

Senator HAYDEN: They only hold positions during pleasure.

Yes, Mr. Hughes, I see in subsection 2 of section 54 there is the provision to appoint a lay-off without holding a competition but I was also wondering whether an eligibility list of lay-offs is built up.

Hon. Mr. HUGHES: Yes, there will be lists of lay-offs established under the regulations which will operate in effect in the reverse way in which promotional eligibility operates. The drafting of these regulations has been quite a complicated process but I think we have now got a reasonable and equitable way of doing it.

Senator HAYDEN: I see in subsection 4 that a lay-off does have the opportunity of being considered in priority to others for an appointment if there is a position in a lower classification that is open.

Hon. Mr. HUGHES: Provided he is qualified.

Senator BRUNT: He must be qualified.

Senator HAYDEN: That requirement is in the wording of subsection 4 of section 54.

Senator DUPUIS: Is there any possibility, in the case where he is not qualified in that branch, of him being transferred to work in another department for which he would be qualified?

Hon. Mr. HUGHES: Yes, there is a possibility of that.

Senator CONNOLLY (*Ottawa West*): Mr. Hughes, perhaps this question is a little unfair and if it is do not answer it: do you think the report of the Glassco Commission is going to affect much of what we do here today?

Hon. Mr. HUGHES: I do not consider it an unfair question, Senator Connolly. I think perhaps that we will be very busy as a result of the recommendations of the Glassco Commission, and this cannot fail to have a profound effect on our operations. But I am not trying to forecast them.

Senator CONNOLLY (*Ottawa West*): No, I do not want you to do that.

Hon. Mr. HUGHES: The Glassco Commission has been looking very closely at the operation of the Civil Service Commission and the personnel departments of the various departments of Government. I am sure Mr. Mackenzie would agree, and the Treasury Board too, that the whole subject of control agencies is one of absorbing concern to the Glassco Commission and I would be very much surprised if it did not have pertinent recommendations to make on that score.

Senator LAMBERT: Mr. Chairman, Senator Connolly last night in the chamber outlined in fairly accurate terms the growth in numbers of the civil service in Canada in the last 15 years. It has been tremendous. The Glassco Commission would deal, I should think, with the idea of the machinery and organization covering this as well as quality of service.

Hon. Mr. HUGHES: I would think so, Senator Lambert.

Senator LAMBERT: And to bring quality of service in the necessary relationship with numbers I do not think that you or your commission are in any position to solve that problem now. But it is certainly one that might lead to a further amendment to this act after the Glassco Commission report is tabled.

Hon. Mr. HUGHES: Yes, it may indeed. We are very much concerned with that and so is the Treasury Board.

Senator HAYDEN: Under section 60, I was wondering if you would just explain one matter there that does not seem too clear to me, but it may be

due to my lack of familiarity with the subject. This deals with the question of dismissal. I notice in subclause (4) it says that if an appeal is taken to the commission under this section, the commission shall make a full report of the matter to the deputy head, and if the deputy head recommends dismissal he shall transmit with his recommendation the report and recommendations of the commission.

First of all, to whom does he transmit it?

Hon. Mr. HUGHES: To the Governor in Council.

Senator HAYDEN: Well, then, in the situation where a decision is taken by the deputy head for dismissal there is an appeal to the commission and the commission makes the report which goes back to the deputy head?

Hon. Mr. HUGHES: And which he must transmit.

Senator HAYDEN: At what stage does the person about to be dismissed have the opportunity to be heard before the commission? He has a right of appeal I know.

Hon. Mr. HUGHES: He has the right of appeal, and rights of appeal are dealt with in section 70 (3). This section applies whenever under this act an appeal may be made to the commission. That is in clause 70 (3).

Senator HAYDEN: That is right, it is under 70 (3).

Senator BRUNT: And you do say there that he can have a representative appear on his behalf. That is a change from the original bill?

Hon. Mr. HUGHES: This is just by way of emphasis, Senator Brunt. The right was there anyway.

Senator BRUNT: It was just to clarify it so there would be no argument?

Hon. Mr. HUGHES: Yes.

Senator GOUIN: In that same clause 70 (3) it says that the deputy head will have an opportunity of being heard, personally and through his representative. Does that word representative apply to the deputy head or to the employee?

Hon. Mr. HUGHES: It applies to the employee as well.

Senator CONNOLLY (*Ottawa West*): Mr. Chairman, could I revert to section 60, which Senator Hayden just raised, subsection (5), which says that the Governor in Council may dismiss an employee pursuant to a recommendation under this section? Now, I was looking at section 20 which says: except as otherwise provided in this act or the regulations, the commission has the exclusive right and authority to appoint persons to positions in the civil service, but when it comes to dismissals it must be done under section 60 (5) by the Governor in Council. I was wondering whether it would not be more logical and perhaps more in keeping with the eminent position of the Civil Service of Canada that it should have the authority to dismiss as well as the authority to appoint. Is there any reason for giving that power to the Governor in Council and removing it from the commission?

Hon. Mr. HUGHES: Well, in a sense the power to appoint is more closely connected with the merit system than with power to dismiss. Power to dismiss has always resided in the executive, and its overriding power to dismiss is reaffirmed in this act. There was some discussion about this before the special committee of the House of Commons, and I think this is an additional protection of the employee to allow his case to be considered by the commission, and then even if the commission might recommend dismissal the Governor in Council can still exercise, if I may say so, the prerogative of mercy and give him another chance.

Senator BRUNT: Is this the only provision for dismissing a civil servant?

Hon. Mr. HUGHES: Well, section 50, subclause 2 merely reaffirms the prerogative right.

Senator BRUNT: But it still goes back to the Governor in Council. That is the only way of dismissal.

Senator HAYDEN: If you rationalize the thing, if a civil service employee holds office during pleasure, it is during pleasure of Her Majesty?

Hon. Mr. HUGHES: That is right.

Senator HAYDEN: And Her Majesty then would act through the Governor in Council. How could it be otherwise?

Senator CONNOLLY (*Ottawa West*): It is otherwise under the present act, though.

Hon. Mr. HUGHES: It can only be done in this way; but in addition to what was provided in the old act for the Governor in Council to dismiss, this bill provides for a right of appeal to the commission and a report to be made. It does not in any way trench upon the right of the Governor in Council to make final decisions, but it is hoped this right of appeal will give closer consideration to any individual case on its merits.

Senator HAYDEN: Even if you recommend non-dismissal, the Governor in Council could still dismiss?

Hon. Mr. HUGHES: He could.

Senator DUPUIS: I am wondering how in a practical way the Governor in Council, which means the Prime Minister and members of his Cabinet, could take its precious time to study all these questions of dismissing employees, with thousands of employees in the civil service in Canada. Is it not true that it is a matter of fact that the Governor in Council accepts the recommendation of the civil service authority to dismiss a man?

Hon. Mr. HUGHES: Senator, I would say that I have been surprised by the care that is taken to study very carefully all cases of dismissal, probably more care than is justified in some cases on the basis of the apparent facts.

Senator DUPUIS: Can you establish how many dismissals there have been in a year?

Mr. MACKENZIE: I have not the figures for a full year, but for a quarter of a year, namely, from November 3, 1960 to February 8, 1961. In that period, there was a total of 91 dismissals. Of those, ten were on account of abandonment of position—the employee did not turn up, he left his job; there were three on account of ill health, which in this context is a polite term for chronic alcoholism; 13 on account of theft; and 58 on account of unsatisfactory service. That is defined as failure to pass examinations in the Post Office Department. That is one cause of dismissal, if the employee cannot pass the examination required by him within six months or during any interval. The other reasons are arson, moral conduct, and falsifying accounts. So that in the three month period there were 91 dismissals, presumably, then, 360 in the course of the year.

Senator BRUNT: Does that refer to arson in connection with Government property?

Mr. MACKENZIE: Yes, sir, it must be.

Senator WALL: On this question of dismissal, is the witness satisfied that just as there is going to be great care continued in making sure that the appointments are on the basis of merit, there will be relative efficiency or ease, or not too much difficulty, in dismissal on breach of merit of performance. Are we tying ourselves down too much so that it will be so very difficult to dismiss if there is no merit in performance?

Hon. Mr. HUGHES: Well, there are two aspects to the severance, if I can use that word, of civil servants from their employment. During a period of probation you can let a man go. There is no necessity there to get an Order in Council. The probation period may be less or more than one year, being within the discretion of the commission and the deputy head; but as far as final termination of the employment of a civil servant who is regularly appointed and has passed the probationary period, it still is a substantial process that has to be gone through to discharge him.

Senator WALL: That is fair enough and reasonably adequate protection, but when there is no merit in performance can we then get rid of these people?

Hon. Mr. HUGHES: Yes, indeed.

Senator WALL: Effectively?

Hon. Mr. HUGHES: Mr. Mackenzie has just said this happened in the great majority of the 91 cases he referred to; it applied to 58 people.

Senator WALL: And the new act does not circumscribe the effectiveness of the dismissal procedure?

Hon. Mr. HUGHES: No, it does not; it merely adds that right of appeal.

Senator HAYDEN: Take the case of a post office employee. An employee has gone through the probationary period, and done it for five or ten years; but as I understand it, at any time there is the right in a person in authority to conduct a test to see whether the efficiency of the employee is keeping up or not?

Hon. Mr. HUGHES: Yes.

Senator HAYDEN: If he fails in the test he can be dismissed?

Hon. Mr. HUGHES: Yes, he can. Indeed, in all departments there are regular efficiency ratings conducted. In the post office, of course, there are many manual operations of some complexity which yield to a specific type of test, and maybe it is easier to assess the efficiency of the different employees. But in all departments there is a regular ratings system, and if an employee gets a number of low ratings and his supervisor feels he is not doing his job properly, the result could be a recommendation to the deputy minister for dismissal.

Senator HAYDEN: Who determines at that stage whether dismissal is the answer, or whether he should be given the opportunity of being graded down?

Hon. Mr. HUGHES: That would be the deputy minister's responsibility, or, in practice, perhaps that of his director of personnel.

Senator HAYDEN: Under this bill, when it becomes law, the employee, if he felt he was being badly treated, could get to the commission?

Hon. Mr. HUGHES: Yes, indeed.

The CHAIRMAN: Would it not be true in administrative practice that a separation is recommended by the head of the department, and this is passed on through channels, and he makes a recommendation, knowing full well the right of appeal the individual may have. This machinery is not involved in the great majority of cases.

Hon. Mr. HUGHES: We have never had this precise machinery before. The Civil Service Commission has absolutely no responsibility now for or jurisdiction over dismissals. Sometimes an employee might come and see us and ask us to intercede, but this is purely informal.

Senator LAMBERT: Supposing an employee, say in the Post Office Department, feels that an injustice has been done him in the rating given to him, what procedure is open to him? Does he appeal direct to the commission?

Hon. Mr. HUGHES: He can do that in a case where his statutory increase, as we call it, is denied. As you know, the pay scales for every position have a range, and annually a man, if he is doing his job satisfactorily, can get additional pay according to the stages in that range. If he is denied such an increase because of unsatisfactory performance, he may then appeal to the commission.

Senator LAMBERT: Must he have the backing, so to speak, or the approval of the deputy minister first?

Hon. Mr. HUGHES: For the appeal?

Senator LAMBERT: Yes?

Hon. Mr. HUGHES: No.

Hon. Mr. CONNOLLY (*Ottawa West*): I would like to ask two other questions, and then I am finished, Mr. Chairman. The major staff associations did not claim the right to strike at any time. Is that pretty well an accepted point of view?

Hon. Mr. HUGHES: I would say it is, yes, very largely, except in connection with the postal employees.

Senator CONNOLLY (*Ottawa West*): They did claim that right?

Hon. Mr. HUGHES: Yes.

Senator CONNOLLY (*Ottawa West*): And the Canadian Labour Congress did not claim it, but said it should not be denied?

Hon. Mr. HUGHES: That is right.

Senator HAYDEN: How can one strike against the authority of the state, in practice?

Hon. Mr. HUGHES: This right has been conferred, for instance, in the province of Saskatchewan and, I understand, in Australia, it is conceded. It is not conceded in Great Britain.

Senator LAMBERT: There is no suggestion at the present time at any organic connection at all between the organized civil service and the Labour Congress of Canada, I suppose?

Hon. Mr. HUGHES: The postal employees and letter carriers are affiliates of the Labour Congress.

Senator LAMBERT: Just the postal carriers?

Hon. Mr. HUGHES: That is correct, and the letter carriers. The postal employees are mostly postal clerks in postal offices.

Senator CONNOLLY (*Ottawa West*): Do you have negotiations with them the way other affiliates have?

Hon. Mr. HUGHES: No, senator.

Senator LAMBERT: There are two people one sees on the television quite often, speaking on behalf of the civil service. Whitehead is one, and the other is the coloured man.

Hon. Mr. HUGHES: Mr. Best.

Senator LAMBERT: Are these people members of the Canadian Labour Congress?

Hon. Mr. HUGHES: I do not like to answer for them, but—

Senator LAMBERT: I mean, they are performing in that way.

Hon. Mr. HUGHES: Their associations have no connection with the C.L.C. at all, of any kind, as far as I know. The postal employees, however, are part of the Civil Service Federation of Canada, of which Mr. Whitehead is president. I think a good deal of latitude is allowed by the federation to its affiliates, but

Mr. Whitehead has said on many occasions that his federation, as a federation, is not seeking the right to strike with impunity.

Senator CONNOLLY (*Ottawa West*): The staff associations gave not only voluminous and helpful but very responsive evidence in the other place.

Hon. Mr. HUGHES: That was my feeling too.

Senator CONNOLLY (*Ottawa West*): Unless we want to continue on this aspect, I have a question on another field.

Senator KINLEY: Who decides the work hours of the civil service?

Hon. Mr. HUGHES: That is decided by the Civil Service Commission in consultation with the departments.

Senator KINLEY: Is it by agreement with the civil service? Is there any agreement with the Civil Service Commission, or do you do it without consultation?

Hon. Mr. HUGHES: Under the present legislation there is no obligation to consult. Under this bill there will be an obligation to consult on hours of work and many other things—in fact, on all the subjects raised in clause 68.

Senator KINLEY: In the postal department in rural places the hours seem to be so different from larger centers on the holiday weekends. It seems that the work hours of people there are different.

The CHAIRMAN: That is particularly true in the post office.

Senator DUPUIS: Does it not depend on the kind of position the civil servant is fulfilling? I may mention that when I was at university for my law course, I worked at night as a railway mail clerk. Each railway mail clerk had a different time to spend on the railway, so it was not the same for any one of us.

Hon. Mr. HUGHES: When I say that the Civil Service Commission has some responsibility in this area, I mean in connection with the average hours of work that are worked in the course of the year, month or week. But within those general limits the departments have the right to say when an office will close or when somebody will arrive on the job.

Senator KINLEY: What is the rule about a five-day week? There must be working hours defined?

Hon. Mr. HUGHES: Yes, the rule is generally in favour of the five-day week, but there are certain exceptions in peculiar trades which do not yield to that particular type of application.

Senator KINLEY: Do they get paid for their overtime?

Hon. Mr. HUGHES: Yes.

Senator HAYDEN: Mr. Chairman, if we have discussed this as much as we usefully can—and I do not want to stop any senator asking questions—perhaps we can report the bill now?

Senator CONNOLLY (*Ottawa West*): Let me ask Mr. Hughes one more question with respect to subsection (3) of section 24. Should not the Commission have the power to do that rather than the deputy head and the Governor in Council? It may be an appointment for only two or three months, and is not that taking the case pretty seriously when an order in council is asked for?

Hon. Mr. HUGHES: Yes. I suppose all I could say—and this is a pretty oblique answer—is that the Governor in Council is apparently so concerned with the maintenance of these pay rates that it is felt that they must be controlled through the Treasury Board, even in the case of rates that are paid for very temporary appointments like these. Mr. Mackenzie might have something to add on this point.

Mr. MACKENZIE: It is only fair to say, Mr. Chairman, that in the vast majority of cases the remuneration which will be paid for these short-term appointments is that referred to in subsection (3), namely, the remuneration established by the Governor in Council for the class and grade within which a position having comparable duties and responsibilities is included. As you are aware, for all of the classes in the Civil Service ranges of pay have been approved by the Governor in Council, and where, for example, in the Town of Yellowknife a stenographer is urgently required for a short time the rate of pay that is paid for that short time is the approved rate of pay for stenographers. Although this section might imply that the rate must be fixed up in a hurry, it is the rate that has already been established and that is in use.

Senator HAYDEN: If the employee wants a higher rate of pay he can only get the approved rate, and then you have to go to the Governor in Council for approval of a higher rate?

Mr. MACKENZIE: If the rate is higher than the approved rate.

Senator CONNOLLY (*Ottawa West*): The Treasury Board could do that.

Mr. MACKENZIE: Yes. In point of fact it is the Treasury Board which does it, and it does it by delegation from the Governor in Council.

The CHAIRMAN: Another point in connection with appointments in the Northern Territories is that although the salary might be the same the living costs are much higher. Who makes arrangements with respect to that?

Mr. MACKENZIE: There is a set of regulations which are called the Isolated Post Regulations which provide for allowances which depend upon the degree of isolation of the post.

Senator BRUNT: It depends on how close you are to the Eskimos.

The CHAIRMAN: Before I take Senator Hayden's motion I would like to ask a question that relates, not directly but indirectly, to the Pay Research Bureau. Obviously, the Governor in Council will be employing more and more scientific personnel. It is agreed, I assume, that the science service of the Department of Agriculture, for example, and comparable personnel in the Departments of Fisheries and Forestry are under the Civil Service?

Hon. Mr. HUGHES: Yes.

The CHAIRMAN: In determining the remuneration to be paid these scientific personnel is there any relationship between what they are paid and what comparable personnel are paid in the National Research Council or in a Crown corporation?

Senator LAMBERT: Or in the universities?

Hon. Mr. HUGHES: In a general way I can answer that by saying, Mr. Chairman, that whatever anybody in the Civil Service is paid is based upon the comparable rate outside. This is the criterion.

Senator DUPUIS: Before reporting the bill may I refer to section 47? Section 47 reads:

The number of employees appointed to serve in any department or in any local office of a department who are qualified in the knowledge of the English or French language or both shall, in the opinion of the Commission, be sufficient to enable the department or local office to perform its functions adequately and to give effective service to the public.

Is there any rule established in the Civil Service to say that an employee should be allowed to fill one post if he knows only one language, or another if he knows both languages?

As you very well know, Mr. Chairman, I am not prejudiced at all, and I know that our Canadian people are broadminded, and that we learn a lot from our fellow countrymen, but there is a question of gaining satisfaction for a certain element in my province which is seeking all kinds of reasons for applying the doctrine of segregation, and to be independent. I would like to know from the Civil Service authorities what, in practice, is the situation with respect to this very important question?

Hon. Mr. HUGHES: I think, perhaps, senator, that I had better direct your attention to the existing section of the act, section 19, which deals with this subject and which provides that no appointment, whether permanent or temporary, shall be made to a local position within a province—

Senator DUPUIS: Section 19?

Hon. Mr. HUGHES: Yes, section 19 of the present Civil Service Act—the act of 1918 which is presently in force. It provides:

...no appointment whether permanent or temporary, shall be made to a local position within a province, and no employee shall be transferred from a position in a province to a local position in the same or in another province, whether permanent or temporary, until and unless the candidate or employee has qualified, by examination, in the knowledge and use of the language, being the French or the English language, of the majority of the persons with whom he is required to do business.

This has resulted not to the advantage of bilingualism but to monolingualism, and this is an attempt to lay upon the commission the responsibility of providing for employees having a knowledge of both languages, or one language but both where it is desirable, and where the commission considers that effective service cannot be given to the public without it. The burden is really laid upon the commission, senator.

Senator DUPUIS: Is there any effort made now by the Civil Service Commission to encourage knowledge of both languages, and to meet the complaints of many people who say that when they try to be understood in French they are answered in English. Is there any effort made to meet complaints such as that?

Hon. Mr. HUGHES: Yes, there is. I would say that the commission is to a very large extent in the hands of the departments who know where these posts are, and who know where bilingualism, or one or other of the two languages, is required. We are always very glad to be able to put in our advertisements of vacancies the requirement of knowledge of both French and English if it is the case.

As you know, we are searching all the time for bilingual offices not only in the service at large but in the Civil Service Commission staff itself. We have been losing many to the provincial government of Quebec recently, and this has been a source of some concern. We are always on the lookout for properly qualified people who have a knowledge of both languages.

The CHAIRMAN: If there is no further discussion—and we do not want to shut it off—can we entertain Senator Hayden's motion?

Senator HAYDEN: To report the bill without amendment.

The CHAIRMAN: Yes. Is it your pleasure, honourable senators, to adopt the motion?

Hon. SENATORS: Agreed.

The CHAIRMAN: Before we adjourn may I, on behalf of the committee, express appreciation to Hon. Mr. Hughes and Mr. Mackenzie for appearing before us this morning.

—The committee adjourned.



Second Session—Twenty-seventh Parliament
1967

THE SENATE OF CANADA
PROCEEDINGS
OF THE
STANDING COMMITTEE ON
CIVIL SERVICE ADMINISTRATION

The Honourable DONALD CAMERON, *Chairman*

No. 1

Complete Proceedings on Bill C-184,

intituled:

“An Act to amend the Government Employees Compensation Act”.

TUESDAY, DECEMBER 12th, 1967

WITNESS:

Department of Labour: J. H. Currie, Director, Accident Prevention
LIBRARY and Compensation Branch.

REPORT OF THE COMMITTEE

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1967

THE STANDING COMMITTEE
ON
CIVIL SERVICE ADMINISTRATION
The Honourable Donald Cameron, *Chairman*
The Honourable Senators

Bélisle	Inman
Blois	Irvine
Bourque	Kinley
Cameron	Macdonald (<i>Brantford</i>)
Choquette	O'Leary (<i>Antigonish-Guysborough</i>)
Dessureault	O'Leary (<i>Carleton</i>)
Fergusson	Quart
Gouin	Roebuck
Grosart	White—(18).

Ex officio members: Connolly (*Ottawa West*) and Flynn.

(Quorum 7)

ORDER OF REFERENCE

Extract from the Minutes of the Proceedings of the Senate, Thursday, December 7th, 1967:

"Pursuant to the Order of the Day, the Honourable Senator Cameron moved, seconded by the Honourable Senator Lang, that the Bill C-184, intituled: "An Act to amend the Government Employees Compensation Act", be read the second time.

After debate, and—

The question being put on the motion, it was—
Resolved in the affirmative.

The Bill was then read the second time.

The Honourable Senator Cameron moved, seconded by the Honourable Senator Lang, that the Bill be referred to the Standing Committee on Civil Service Administration.

The question being put on the motion, it was—
Resolved in the affirmative."

J. F. MACNEILL,
Clerk of the Senate.

MINUTES OF PROCEEDINGS

TUESDAY, December 12th, 1967.

(1)

Pursuant to adjournment and notice the Standing Committee on Civil Service Administration met this day at 11.10 a.m.

Present: The Honourable Senators Cameron (*Chairman*), Blois, Fergusson, Grosart, Inman, Irvine and Roebuck—(7).

In attendance:

E. Russell Hopkins, Law Clerk and Parliamentary Counsel.

R. J. Batt, Assistant Law Clerk, Parliamentary Counsel, and Chief Clerk of Committees.

On motion of the Honourable Senator Fergusson it was *Resolved* to report, recommending that authority be granted for the printing of 800 copies in English and 300 copies in French of the proceedings of the Committee on Bill C-184.

Bill C-184, "An Act to amend the Government Employees Compensation Act", was read and considered.

The following witness was heard:

Department of Labour:

J. H. Currie, Director, Accident Prevention and Compensation Branch.

On motion of the Honourable Senator Grosart, it was *Resolved* to report the said Bill without amendment.

At 11.30 a.m. the Committee adjourned to the call of the Chairman.

Attest.

Patrick J. Savoie,
Clerk of the Committee.

REPORT OF THE COMMITTEE

TUESDAY, December 12th, 1967.

The Standing Committee on Civil Service Administration to which was referred the Bill C-184, intituled: "An Act to amend the Government Employees Compensation Act", has in obedience to the order of reference of December 7th, 1967, examined the said Bill and now reports the same without amendment.

Your Committee recommends that authority be granted for the printing of 800 copies in English and 300 copies in French of its proceedings on the said Bill.

All which is respectfully submitted.

DONALD CAMERON,
Chairman.

THE SENATE

STANDING COMMITTEE ON CIVIL SERVICE ADMINISTRATION

EVIDENCE

Ottawa, Tuesday, December 12, 1967

The Standing Committee on Civil Service Administration, to which was referred Bill C-184, to amend the Government Employees Compensation Act, met this day at 11.10 a.m. to give consideration to the bill.

Senator Donald Cameron (Chairman) in the Chair.

The Chairman: Honourable senators the first item is the usual motion to print the proceedings of the committee, 800 copies in English and 300 in French.

The committee agreed that a verbatim report be made of the committee's proceedings on the bill.

The committee agreed to report recommending authority be granted for the printing of 800 copies in English and 300 copies in French of the committee's proceedings on the bill.

The Chairman: You will recall that on second reading a number of questions were asked which I, as sponsor of the bill, was not qualified to answer, not being a lawyer, and so on. We have with us this morning Mr. J. H. Currie, Director of the Accident Prevention and Compensation Branch of the Department of Labour. I will ask Mr. Currie to deal with the questions that were raised in the house the other night.

J. H. Currie, Director, Accident Prevention and Compensation Branch, Department of Labour: Mr. Chairman, honourable senators, I think it might be useful to give a brief explanation of the specific points raised the other evening, and then I should be glad to elaborate them if you wish, or any others that may occur to you.

In connection with the employment of locally engaged persons, in all our embassies and other locations abroad there may be a number of people of the community native to that land—let us say it is New Delhi—who are engaged, for example, by the High Commissioner. These people are covered in one of

two ways. Under the general provisions of the Government Employees Compensation Act they are workers and employees of the Canadian Government. If there is a local workmen's compensation scheme in that country, the Canadian Government as the employer pays the premiums, or whatever contributions an employer in that land has to pay to provide this protection to native workers. If there is not any local industrial accident scheme or workmen's compensation scheme, under section 6 of the Government Employees Compensation Act, my own branch here in Ottawa handles the claim of an injured employee and awards compensation just as if he were an employee in Canada, having regard to all the circumstances, so that persons who are locally engaged outside of Canada by the Canadian Government are covered in one of those two ways.

Senator Roebuck: I presume they contribute as though they were here.

Mr. Currie: The employees themselves are not required to make any contribution. Their employer makes the total contribution. That is why they are excluded from this particular amendment. This only applies to Canadians who are assigned abroad and while there contract some disease or disability as a result of their environmental conditions. It is really an extension of the notion of industrial disease or occupational disease.

With regard to retroactivity, I think Senator Grosart hit the nail on the head. It is not so provided, and it is not intended that the amendment should have any retroactive effect whatever. It will apply only to cases of this kind that arise in the future.

Senator Grosart: On that point, you do not have any outstanding claims?

Mr. Currie: There are one or two cases which we were regretfully unable to accept under our existing legislation. These occurred in the last year or two in Indo-China, or Vietnam I suppose it is now, where the ailment was diagnosed very competently locally

as something that, had it even occurred here in Canada, would not have been regarded as an industrial or occupational disease, yet it was thought that because of the climate and other very dangerous conditions there it was probably aggravated or caused there in the first place. However, we had no choice but to reject it.

E. Russell Hopkins, Law Clerk of the Senate: That would be covered under the amendment?

Mr. Currie: In the future that type of thing would be covered under the amendment. You might say that particular case is outstanding. As occasionally happens here in Canada, people are disabled in the course of their employment and do not fall squarely within the existing provisions, and almost invariably the Government by an ex gratia arrangement or special provision in the Appropriation Act will provide a benefit if it can be clearly established that it had a causal relationship to the man's employment.

The Chairman: In other words, there is provision for a value judgment on doubtful cases.

Mr. Currie: That is so. Another question concerned persons who might be working for corporations and who might in fact be taking training with a view to becoming an employee of a corporation. Well, as the chairman I believe indicated, this only applies to prospective employees of any federal Crown corporation to whom the act itself applies. It would not apply to any private corporation.

The Chairman: What would be the case where a private corporation was engaged to do a job for the Crown? Would they then be covered?

Mr. Currie: I would not think so, sir. There would have to be the condition that they must be an employee or prospective employee of a federal department or a Crown agency.

Senator Grosart: And this would be established by the matching contribution of the employer?

Mr. Currie: In this particular instance, Senator Grosart, the total contributions, if any, are paid by the employer, but, generally speaking, under the Government Employees Compensation Act the Government departments and Crown agencies, other than those like Polymer Corporation, for example, have

no employer contribution either. All of these costs are paid out of a statutory vote coming out of the Minister of Labour.

Senator Roebuck: How do these amendments cover the case that you have mentioned in Delhi, where some person became ill because of the climate or something of that nature?

Mr. Hopkins: It is under (b) on page 2, senator.

Senator Roebuck: Thank you.

Senator Grosart: Mr. Currie, did I understand you to say that under the Government Employees Compensation Act the employee makes no contribution?

Mr. Currie: This is correct.

Senator Grosart: So this is sort of an extra fringe benefit?

Mr. Currie: Yes.

Senator Grosart: I am not objecting to it, because I am all for it.

Mr. Currie: This is the nature of it, as indeed it is in the private sector, too. It is part of the compromise that was reached between workers and their employers about 50 years ago, when we first introduced workmen's compensation legislation in this country. The worker gave up his rights to sue his employer in case there was any negligence, so there is no contribution of any kind from any employee.

Senator Grosart: How is the fund maintained? Or is there a fund maintained?

Mr. Currie: There is no fund as such. We operate under annual grants from Parliament under an Appropriation Act.

Senator Grosart: Do I understand, then, that the Government itself does not actually make a contribution to a fund? It merely makes a payment when a claim can be established?

Mr. Currie: It does not make any contribution to any accident fund, such as the Workmen's Compensation Board of Ontario, Quebec or Alberta. It only pays its costs.

The Chairman: Is it correct that the cost of this runs to about \$50,000 a year?

Mr. Currie: This is very difficult to estimate, Mr. Chairman, but as nearly as we can calculate it would be something of that order. This was just to indicate that it is not a very

costly matter, but there is some expense attached to it, of course.

Senator Grosart: Where would it be found in the main Estimates?

Mr. Currie: Under the Minister of Labour, statutory vote, payment of compensation respecting Government employees. It is in the order of \$3 million now per year.

Senator Blois: Mr. Chairman, if, for instance, we take the Canadian National Railways, they are covered by workmen's compensation, but as a rule—and I think I am correct in making this statement—their compensation is worked out through the province in which they are working, and then they in turn bill the Canadian federal Government. But thinking back to such examples, surely there must be more than \$50,000 involved, if all these Crown-owned companies are included in it?

Mr. Currie: Correct, My answer, I am sorry, was related only to the effect of these amendments. I thought that was the question. There are so few cases of the type that may be covered under these amendments that I would guess there would not be six per year at the most.

Senator Blois: I see. It refers to this only.

Mr. Currie: Quite so. Oh, absolutely. We have cases that cost more than \$50,000 per one incident.

Senator Blois: Right.

The Chairman: Are there any other questions?

Senator Grosart: Is there an appeal board which hears these claims? How is a claim disposed of? I will put it that way.

Mr. Currie: Any claim arising out of the provisions of the Government Employees Compensation Act, whether in Canada or abroad, is referred to my branch in the first instance. And our experienced claims people review it as to its acceptability. Was it an employee? Did it appear to arise out of and in the course of his employment? Is it part of the Government of Canada that is covered by the act, and so on? There are some general questions. If we are satisfied that it appears to be an acceptable type of claim, then we refer it to the provincial Workmen's Compensation Board of the province where the man is usually employed. They in turn make any

further investigations that are necessary and they then process the claim and pay it on our behalf. If there are any discussions we will get into them at a later stage. Sometimes they turn down claims which we think ought to be accepted, and the reverse happens as well: they may occasionally accept a claim which we think ought not to have been accepted. So we discuss and consider these together and usually work out a settlement between us.

If, however, the claimant is not satisfied with our performance or with the board's performance, he can appeal, and claimants frequently do appeal, to the compensation board in the province hearing the claim. We are sometimes represented. We can be represented all the time, if we wish, at these appeal hearings. Sometimes we are represented, if it is a serious case and if we have real grounds for doubting the validity of the claim. The employee is represented as well. He may appear himself or he may have counsel with him, and so on. The system varies across the country, but this is the general description.

The board decides whether or not there is a valid appeal, and they will reconsider and sometimes award a claim which they feel should be denied, or they might modify a previous award.

This can go on indefinitely, unfortunately. We have had claims continued under appeal for 20 years. One wonders sometimes, but a claim, theoretically, is never closed. If any claimant at any time can bring forward any new evidence indicating that he has an aggravation or that this condition was not there when he took his employment and now is there, and there is supporting medical evidence, we are always willing to listen again.

Senator Grosart: Would you say in general that the rights and the recourses of the claimant under this act are roughly the same as under the various industrial compensation acts?

Mr. Currie: Their rights and their entitlements are the same. They are certainly no less, and in fact under the new amendments proposed here they are even better.

Senator Roebuck: You have no statute of limitations when a claim has once been registered, but I presume you have some limitations on how long a person can wait before he registers a claim, have you not?

Mr. Currie: Yes. We tend to comply, as a matter of course, with the requirements in

each province. Some provinces will say that the incident must be reported within three days, and certainly not longer than three months, or some such other period. However, occasionally it happens through error or misunderstanding that it does not get reported in time.

We recently had a case of a native Indian on a reserve in Cold Lake, Alberta, I think it was, who was killed over a year ago in the course of his employment as a special R.C.M.P. constable. No one at the time thought that he would be entitled to workmen's compensation because he was a native Indian and because of some other factors. However, it finally came to our attention and we said that his dependents should not be denied their entitlement and we looked into it. This has been a very long case, but very

recently we have, with the co-operation of the Alberta Workmen's Compensation Board, had the claim accepted, and the deceased's widow and children are now going to start drawing workmen's compensation benefits. It is 15 months since the occurrence. So while normally there is a time limit, nevertheless in exceptional cases you can always have a case accepted if it is a good one.

We always try to make very very sure that anybody who has any entitlements under this act gets everything that the statute permits.

The Chairman: Are there any other questions? Are you ready to report the bill without amendment?

Hon. Senators: Agreed.

The committee adjourned.



